

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 6757 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

CHANDRAKANT MOHANLAL PARMAR

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 6757 of 2000
MR SR BRAHMBHATT for Petitioner No. 1
MR VIPUL PANCHOLI Ld. APP for Respondents
-

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 10/01/2002

ORAL JUDGEMENT

Rule. Mr. Vipul Pancholi, learned APP waives
service of rule on behalf of the respondents.

Heard learned counsel Mr. SR Brahmbhatt for the petitioner and Mr Pancholi learned APP.

By means of filing this application, the petitioners have prayed for quashing the Criminal Complaint No. 122 of 1999 registered at Limdi Police Station, taluka Zalod, district Dahod.

The petitioner no. 1 at the relevant point of time was serving as Assistant Regional Transport Officer, Dahod and petitioner no. 2 was serving as Inspector of Motor Vehicles, Dahod. It is contended that petitioners no. 1 and 2 were discharging their official duties on 25th September, 1999 and had intercepted a Motor Truck bearing registration NO. GJ-06-U-6531 at about 10.00 a.m. As the driver of the truck intercepted did not produce any papers of the truck, except his driving licence, both the petitioners took the truck to the nearest police station in view of the provisions of sec. 207 of the Motor Vehicles Act. The truck driver himself took the truck to the police station and on the strength of the report submitted by the petitioners, police officer issued acknowledgment of receiving of the truck. It is on record that when this truck was intercepted and taken to the nearest police station, was absolutely covered with Tarpaulin (Tal Patri). Unfortunately, the truck was loaded with live stocks namely cows and before that truck to be released and handedover to the owner, 15 of the loaded cows were found dead. Mr. Brahmbhatt has submitted that in view of the contents of document Annexure-C, page 23, and uncontroverted averments made by the petitioners, any of the petitioners cannot be linked with any of the offence registered by the police. The act of intercepting the truck in question was an act done in discharging their official duty and in couple of minutes the said truck was handed over to the said police station. There are documents on record including the FIR to show that at 10.00 a.m. the truck was received by the concerned police station and entry no. 7 was made in the register of the concerned police station. The petitioners no. 1 and 2 were on duty and had undertaken the duty of checking vehicles. The motor truck was completely covered with Tarpaulin (Tal Patri) and cargo was not visible at all. It was neither obligatory nor required for the RTO officials to check the covered cargo. It is contended that when truck was intercepted even the driver of the truck had not revealed that the truck is carrying live stock, namely cows.

Initially the present petition was filed for various reliefs including the compensation for illegal

detention of both the petitioners, but now the petitioners have restricted the reliefs and have prayed for quashing of the complaint registered against them. The totality of the fact clearly indicates that any of the petitioners cannot be held liable for treating the animals with cruelty nor there can be said to be an act of criminal negligence. So, they cannot also be linked with offence punishable under sec. 429 of IPC. Therefore, the complaint against present petitioners shall be have to be turned down. Mr. Brahmbhatt has rightly submitted that the provisions of Bombay Animals Preservation Act, 1984, would not be attracted, in reference to sections 5, 6 and 8 of the said Act.

Mr. Brahmbhatt during the course of submissions has produced a letter dated 23.2.2000 written by the Principal Secretary, Home Department to the Director General of Police, wherein the department has expressed its opinion that the petitioners were wrongly arrested and the police officers act with restraint and caution. According to me, this letter though say something positive in favour of the petitioner but it could not help the petitioners, but this court is supposed to record the finding and cannot bend upon the opinion expressed by any officers of the department. The said letter is taken on record.

In response of the query raised by the Court, learned APP Mr. Pancholi has submitted that this act of petitioners of not checking the cargo of the truck intercepted, would be said to be an act of negligence, but it is on record that when the truck was handed over to the concerned police station, the police also had not taken care to check the cargo lying in the truck. The immense wrong committed by the driver of the truck who has not disclosed this fact before the RTO Officers of Police. There is no iota of evidence under which any of the petitioners can be attributed about the knowledge or intention. So, I am inclined to exercise the powers vested with this Court under sec. 482 of Cr.P.C.

In the result, this application is allowed. The Criminal Complaint being FIR No. 122/1999 registered with Limdi Police Station, taluka Zalod, district Dahod is hereby quashed and set aside.

Mr. Brahmbhatt learned counsel appearing for the petitioners during the course of submissions has pointed out that police has charge-sheeted other accused persons, but because of the interim relief granted by this Court, petitioners are not charge-sheeted till date. As the

criminal complaint filed against the present petitioners is quashed and set aside, the question of filing charge-sheet against the present petitioners does not arise.

(C.K. BUCH, J.)

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